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Supreme Court of the United States.

OCTOBER TERM, 1929. No. 528.

BROAD RIVER POWER CO. *et al.*, PETITIONERS,

vs.

STATE OF SOUTH CAROLINA, *et al.*

On Writ of Certiorari to the Supreme Court of South Carolina.

APPENDIX TO PETITIONERS' BRIEF.

REPRINT OF IMPORTANT STATUTES, ORDINANCES AND DEED.

The Evening Post Job Printing Office, Inc., 154 Fulton St., New York, N. Y.

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I.

HORSE CAR CO.'S CHARTER—1882

[II, REC. 817: ACTS 1882, P. 876]

"An Act to Incorporate the Columbia Street Railway Company

Section 1. *Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same,* That William D. Starling, Thomas D. Gillespie, and John R. Abney, and all other persons who may become associated with them, be, and they are hereby, declared a body politic and corporate, under the name and style of "The Columbia Street Railway Company."

Section 2. That the said Company shall have power to make such by-laws for the government of the same as shall be deemed necessary and expedient by a majority of the shareholders, not repugnant to the laws of the land; to elect such officers as said by-laws may prescribe; to have succession of officers and members; to have a common seal, and to alter and make new the same; to purchase, hold, and sell real and personal estate, for the purpose of its business; and sue and be sued, plead and be impleaded, answer and be answered unto, in all the Courts in this State.

Section 3. That the said Company shall have power to take, subscribe, and raise a capital stock to the amount of twenty-five thousand dollars, in shares of twenty-five dollars each, for the purposes contemplated, and may increase the same to the further sum of one hundred thousand dollars, if deemed necessary by a majority of the shareholders; but the said Company may organize and begin business whenever the sum of five thousand dollars shall be raised.

Section 4. That the personal liability of each shareholder shall not exceed ten per cent in addition to the amount of the shares which he or she holds.

Section 5. That the said Company shall have power to construct single or double railway tracks of such gauge as they may elect, through any street or streets of the City of Columbia, as it may deem advisable for the accommodation of the public or the interest of the Company, and to extend the same five miles beyond the corporate limits of said city: Provided, That the said Company shall so construct said railways that they shall not obstruct the streets through which they pass, and that the Company shall be required, after laying said railways, to replace the portion of the streets over which they pass in good condition, and thereafter keep their railway in like good order; in consideration of which the said Company shall have such exclusive right of way over said railway as may be necessary for the proper conduct of its business.

Section 6. That said Company shall have power to transport passengers and freight in suitable and sufficient carriages and cars, at such rates as may be fixed in the by-laws of the same.

[fol. 964] Section 7. That the said Company shall have power and authority to issue coupon bonds to an amount not exceeding the capital stock, the same to be redeemed at such time, not exceeding twenty years, as may be agreed upon by said Company, and to bear interest at the rate of seven per cent per annum, payable semi-annually.

Section 8. That this Act shall remain in force and continue for the period of thirty years: Provided, That said Company begin to operate a railway in said city within five years.

Section 9. That all Acts and parts of Acts repugnant to or inconsistent with this Act be, and the same are hereby, repealed.

In the Senate House, the eighth day of February, in the year of our Lord one thousand eight hundred and eighty-two.

J. D. Kennedy, President of the Senate. J. C. Sheppard, Speaker House of Representatives.

Approved February 9th, A. D. 1882.

Johnson Hagood, Governor."

II.

ORDINANCES OF CITY OF COLUMBIA *Re* HORSE CAR CO.: JUNE 29, 1886.

[II, REC. 833]

Line of Street Railway.

Sec. 549. The Columbia Street Railway Company is authorized to lay its tracks as follows, that is to say: A single track commencing at the Union Depot of the South Carolina, Wilmington, Columbia and Augusta, and Columbia and Greenville Railroad, along Gervais Street to Sumter, thence along Sumter to the Chapel of the University and to Lady, thence along Lady to Marion, thence up Marion to Plain, thence along Plain to Richardson and to Henderson, thence along Henderson to Blanding, thence along Blanding to the Charlotte, Columbia and Augusta Railroad line and to Bull, thence up Bull to Laurel, thence along Laurel to the Charlotte, Columbia and Augusta Railroad line and to Richardson Street, thence up Richardson Street to Elmwood Avenue, thence along Elmwood Avenue to the Male Asylum and to the line of the Columbia and Greenville Railroad, also along Pickens Street from Laurel Street to the Male Asylum,

together with such turnouts and switches for passing as may be necessary: Provided, There shall be no turnouts or switches placed on Richardson Street between Laurel and Gervais Streets.

How Track to be Laid, &c.—Penalty.

Sec. 550. The said tracks, turnouts, &c., shall be laid along such portions of the said streets as may be determined by the City Surveyor and the Committee on Streets, complying with the surveyor's regulations and gradients that are now or may be hereafter adopted by the city, so as will least interfere with the repair and laying of the water, gas and sewer mains, and the preservation of the trees, and at the same time will furnish no greater obstruction than is necessary to the free use and enjoyment of the [fol. 979] streets. The gauge of the said tracks shall be 4 feet 8½ inches, and the rails for said track shall be of improved street railway iron, and shall be so laid that the top of the rail shall be even with the grade of the street. The said corporation shall keep in repair all bridges, turnouts, drains, &c., which the track or tracks cross; and when a bridge is necessary for the crossing of any drain, said drain shall be bridged the width of the street, exclusive of the pavement, wherever required by the city authorities, at the same level at which the track or tracks cross, and shall plank, pave, macadamize or gravel the said tracks between the rails and for as many feet, not less than three, on each side of the track as may be and at such times as required by the city authorities; and no car shall be run on said track or tracks until they have filed with the City Clerk the certificate of the City Surveyor and Committee on Streets that all the requirements of the city Ordinances and regulations of City Council have been complied with. Any violation of this Section shall make the company liable to such fine as the Recorder may impose, not exceeding forty dollars for each and every day they shall be proven to have violated the same, after notice given by the Street Overseer, City Surveyor, or Committee on Streets.

Duties of Company as to Drivers, Speed, &c.—Fine.

Sec. 551. Said Company shall employ competent, careful, prudent and sober drivers, who shall not run the cars at a speed greater than six miles per hour, and shall use all exertions to avoid collisions, giving due notice to the drivers of other vehicles and foot passengers to prevent the same; [fol. 980] and any violation of this Section shall be punished by fine in such sum as the Recorder may impose, not exceeding forty dollars, or imprisonment not exceeding ten days. This fine shall not exempt the company from the penalties and responsibilities of such violations or acts committed by the drivers, conductors or officials; and it shall be the duty of the drivers of all vehicles to leave the tracks on the approach of the cars, and in no way unnecessarily to obstruct the progress of the same. Any person violating this provision shall be punished by fine not exceeding forty dollars or imprisonment not exceeding ten days.

What Motive Power Allowed.

Sec. 552. The said company shall use no other motive power, unless especially permitted by Council, than horses or mules, for the conveyance of freight or passengers, and whenever it shall be necessary to attach two mules or horses, they shall be driven abreast.

When Cars to Run.

Sec. 553. It shall be the duty of the company on week days to run a car for passengers at least every hour from 7 A. M. to 9 P. M., except on that portion of the road which shall be laid for pleasure trips only, the running of which shall be directed by the company until directed by Council to change the same, but this Section shall not be construed to prevent trips during the whole night, should the company so desire.

Cars to be Numbered, Lighted, etc.

Sec. 554. Every car shall be numbered or named, and shall have the number or name painted on each side in such manner and place as may be plainly seen, and shall carry at night a lighted lamp in front and rear, with a number [fol. 981] or name thereon, and shall be fully and properly lighted inside and shall have a bell attached to each horse. Failure to comply with the provisions of this Section shall subject the company to such fine as the Recorder may impose, not exceeding forty dollars.

Penalty for Failure to Run.

Sec. 555. If the said company shall neglect or refuse to run their passenger cars as herein provided for a period of three months, then the corporate authorities of this city may rent the road at public outcry for account of the company. All the tracks above provided for in and along the rented, and shall be idle for a period of twelve months, then the said city authorities may have the said road taken up, and the material sold to the highest bidder, and after deducting the expenses of taking up the road, selling the said material, and repairing the streets, the balance, if any, shall be paid to the legal representatives of the said company. All the tracks above provided for in and along the streets above mentioned shall be constructed within twelve months from June 29, 1886; failure so to construct said tracks shall deprive the Street Railway Company of all the privileges granted herein.

Smoking and Improper Conduct in Cars Prohibited—Fine.

Sec. 556. No person shall smoke in any car of said company, or be intoxicated, or otherwise improperly conduct himself or herself. Any person violating this Section shall be liable to ejectment from the car, and to such fine as the Recorder may impose, not exceeding forty dollars or im-

prisonment not exceeding thirty days: Provided, That nothing herein shall prevent said company from running special cars for smoking, should they so desire.

Streets not to be Obstructed.

Sec. 557. It shall not be lawful for any driver or conductor of any car to stop the same so as to obstruct the streets intersecting the line of the railroad; nor shall they obstruct the foot crossing of the street for a longer time than is necessary for the landing and receiving of passengers, but is shall be their duty to drive beyond the intersecting street as far as the crossing before stopping; nor shall they stop anywhere on the line for an unreasonable time, under such penalties as the Recorder may impose, not exceeding a fine of forty dollars or imprisonment for thirty days for each offence.

Fire Department not to be Interfered With.

Sec. 558. No privilege or authority herein granted shall be so construed as to interfere with the operations of the Fire Department; but in case of fire in all cases the use of the streets where the tracks are laid out shall be subservient to the necessities of the Fire Department.

Duties of Conductors and Drivers—Duties of Passengers—Fine.

Sec. 559. The conductor and motorman or driver of each car shall keep a vigilant watch of all vehicles and persons on foot, especially children, either on the track or moving towards it, and on the first appearance of danger to such vehicle or persons, the car shall be stopped in the shortest time possible, and all foot passengers are hereby required to avoid obstructing the track by their presence or otherwise; no ladies or children shall under any circumstances be allowed to enter or leave the car while the same is in

motion, and the conductor and driver shall, when required, stop to allow any one to leave the car, and when not full, stop for any passenger giving the customary signal, if [fol. 983] within a reasonable distance. The violation of any portion of this Section shall subject the offender to a fine not exceeding forty dollars or imprisonment not exceeding thirty days.

Right of Amendment Reserved.

Sec. 560. The corporate authorities reserve the right to amend or alter this Chapter whenever circumstances may require it, and the granting of the privilege to this company to construct its track through any street is not exclusive, and the city authorities may grant the same right to other companies through the same streets or thoroughfares, if they deem it advisable.

III.

CONGAREE CO.'S CHARTER—1887.

[II, REC. 813: ACTS 1887, P. 1103]

"An Act to Incorporate the Congaree Gas and Electric Company

Section 1.—Incorporation, name and powers.
Section 2.—Purposes—gas and electricity.
Section 3.—Capital stock of the corporation.
Section 4.—Duration of charter.
Section 5.—Other powers and liabilities.
Section 6.—Voting by stockholders.
Section 7.—Shares of stock.
Section 8.—Suits against stockholders.
Section 9.—Penalties for injuring corporate property.
Section 10.—Books of subscription. Organization. Directors.
Section 11.—Public Act. When to take effect.

Section 1. *Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same,* That W. H. Bibbes, John P. Thomas, Jr., John T. Sloan, Jr., T. T. Moore and B. L. Abney, together with such other persons as now or hereafter may be associated with them, shall be, and they are hereby constituted and made, a body politic and corporate, under and by the name of the Congaree Gas and Electric Company, and as such body politic and corporate shall have power to make, use, have and keep a common seal, and the same at will to alter; to make all necessary by-laws not repugnant to the laws of the land, and may add to, alter or amend the same from time to time as may be desired, and to have succession of officers and members conformably to such by-laws; and to sue and be sued, plead and be impleaded, in any Court in this State, and to have, use and enjoy all other rights, powers and privileges, and be subject to all other liabilities, which are incident to bodies corporate.

[fol. 961] Section 2. The said corporation shall have full power and authority to manufacture, make and sell gas, to be made of rosin, coal, oil, turpentine, or other material, and to furnish such quantities of gas as may be required in or near the city of Columbia, for lighting the streets, stores, manufactories and buildings there situate, and for heating and other purposes; to lay pipes or other conductors for conducting gas through the streets, alleys, lanes and squares of the city of Columbia aforesaid, or its vicinity; and the said corporation shall have full power and authority to carry on and conduct the business of using electricity for any purpose, and of manufacturing light, heat and power, or either or all of them, by electricity or any other agent or agents whatsoever, within the said State and to the inhabitants thereof, for lighting and heating the streets, roads, lanes, alleys, avenues and public grounds of the several cities, towns and villages thereof, and for lighting the stores, manufactories, residences and all other buildings

therein, and steamboats, railroad cars, locomotives, or for other transportation or industrial purposes, and for such purposes to erect or lay all necessary poles, pipes and conductors, subject to proper municipal ordinance and restriction, and the supplying of power to carry on and conduct the business of dealing in dynamo-electric machines, voltaic arcs, and incandescent lamps, regulators, meters, and other apparatus, devices and appliances which may be used or applied in producing light or power by electricity or in connection therewith; and the said corporation shall have full power and authority to erect shops, works and such other buildings as may be necessary or desirable, and to purchase, take, hold, sell and convey in fee simple, or for less estate, any lands, tenements, or hereditaments, goods, chattels, rights and credits, which may be connected with or in any manner conducive to the purposes for which said company is established; to issue bond or bonds of the company, secured by mortgage or otherwise, in such amount or manner as the said corporation may determine.

Section 3. The persons aforesaid shall have power to raise by subscription a capital stock for said corporation of twenty-five thousand dollars, in one thousand shares of twenty-five dollars each; Provided, however, That a majority of the Board of Directors of said corporation shall have the power of increasing the said capital stock to any extent not exceeding one million dollars, whenever they deem proper to do so; and the said corporation shall, by its by-laws or Board of Directors, provide for the manner of raising and distributing such additional capital stock.

Section 4. That the duration of the charter hereby granted shall be for the term of thirty years and until the final adjournment of the General Assembly next thereafter.

Section 5. That said corporation shall have, and is hereby vested with, all the powers, rights and privileges, and is hereby subject to all the liabilities and restrictions, con-

tained in Section twenty-two of an Act entitled "An Act to provide for the formation of certain corporations under general laws", approved December 25, 1886, except in so far as the said Section of said Act, or any part thereof, is inconsistent with the provisions of this Act or any part thereof.

Section 6. Each stockholder shall have one vote for each share of the capital stock of the said corporation he may own or represent at all elections and all meetings of the company, and the Board of Directors of the said corporation are authorized to make such regulations as may be deemed proper for the representation by proxy of such stockholders as may be absent at such elections and meetings.

Section 7. The capital stock of said corporation shall be deemed personal property; and the said corporation shall have authority, in its by-laws or by the Board of Directors, to make all such regulations as may be deemed necessary and proper for the issuing and transfer of such stock, or for collecting and enforcing by sale or otherwise all subscriptions made thereto.

[fol. 962] Section 8. The said corporation shall have power to enforce upon their members the due observance of all rules and by-laws for the government and management of the affairs of the corporation; and to this end, if need by, shall and may institute and maintain in their corporate name, against any one or more of their members, all necessary suits, actions and pleas for the recovery of any sum or sums of money to the use of the said corporation, in as ample a manner as such suits might be maintained against persons not members of said corporation.

Section 9. That any person wilfully injuring, or causing to be injured, any of the property of the said corporation shall forfeit and pay to the said corporation treble the

amount of damages sustained by any such injury, to be recovered by action in any Court having cognizance thereof, and shall be considered guilty of a misdemeanor, and, being convicted thereof, shall be punished by fine not exceeding three hundred dollars or imprisonment not exceeding two years.

Section 10. The person above named, or any three of them, may open books of subscription to the capital stock of said company at such time or times and at such places and for such periods as a majority of them may determine; and as soon as the sum of twenty-five thousand dollars shall be subscribed thereto, the beforenamed persons or a majority of them, on such notice as they may deem sufficient, shall call a meeting of such subscribers, and at such meeting and all future meetings of the stockholders the shares of the capital stock may be represented in person or by proxy. The subscribers, at their meeting to be held as aforesaid, shall elect from themselves such a number of Directors of said corporation as they may deem proper, who shall continue in office for one year and until their successors shall be duly elected, and thereafter there shall be annual meetings of the stockholders of said company at which Directors shall be chosen, whose tenure of office shall be as above provided. The directors chosen or elected at such meeting shall from among themselves elect a President and Vice-President, to act as such during the term of office of such Directors, and they shall perform such duties and exercise such powers as may be prescribed by the by-laws of said corporation or as shall be incident to their respective offices.

Section 11. That this Act shall be deemed and taken as a public Act, and shall be judicially taken notice of without special pleading, and shall take effect immediately upon its approval.

In the Senate House, the twenty-fourth day of December, in the year of our Lord one thousand eight hundred and eighty-seven.

W. L. Mauldin, President of the Senate. James [fol. 963] Simons, Speaker House of Representatives.

Approved December 24th, A. D. 1887.

J. P. Richardson, Governor."

IV.

ORIGINAL ELECTRIC RY. CO.'S CHARTER—1890

[II, REC. 811: ACTS 1890, P. 969]

"An Act to Incorporate the Columbia Electric Street and Suburban Railway and Electric Power Company

Section 1. *Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same,* That Milton H. French, M. L. Bonham, John S. Verner, J. Q. Marshall, and such other persons as they may associate with them, be, and they are hereby, created a body politic and corporate, by the name of the Columbia Electric Street and Suburban Railway and Electric Power Company, with the power to sue and be sued in the Courts of the State of South Carolina; to have a common seal, with the right of alteration of the same, and to make by-laws for the government of said company.

Section 2. That the said company shall have power to raise a capital stock of twenty-five thousand dollars, in shares of twenty-five dollars each, for the purposes contemplated, and may increase the same to the sum of one hundred and fifty thousand dollars, if a majority of the shareholders may deem it necessary. The said company

shall have power to organize and begin business when five thousand shall have been paid in.

Section 3. That the said company shall have the power to purchase, hold and sell real and personal property for the purposes of its business.

Section 4. That the personal liability of each shareholder shall not exceed five per cent, in addition to the amount of the share or shares he or she may hold.

[fol. 960] Section 5. That the said company shall have power to construct or acquire single or double railway tracks, or such gauge as they may elect, through any street or streets of the City of Columbia, with consent of City Council, and to extend the same five miles into the country, in any direction or directions they may wish, from the State Capital. And the said company is authorized and empowered to contract for and provide electric power for any other purpose or purposes.

Section 6. That said company shall have power to operate their cars in the transportation of passengers and freight over the tracks they may construct or acquire, in said city, with electric power, in suitable carriages, and at such rates as may be fixed upon in the by-laws of the same.

Section 7. That said company shall have power and authority to issue coupon bonds to an amount not to exceed its capital stock, the same to be redeemable at such time, not exceeding thirty years, as may be agreed upon by said company, and to bear interest at the rate of seven per cent, per annum, payable semi-annually; and for the purpose of securing said bonds so issued shall have the power to mortgage all the property, real and personal, rights and franchises of said company.

Section 8. That this Act shall remain in force and continue for the period of thirty years; provided, That said company begins to operate its railway in said city within five years.

Section 9. That all Acts or parts of Acts inconsistent with this Act be, and the same are hereby, repealed.

Approved December 24th, A. D. 1890."

V.

CONSOLIDATION ACT—1891

[II, REC. 809: ACTS 1891, P. 1453]

"An act to authorize the consolidation of the 'Columbia Electric Street and Suburban Railway and Electric Power Company' and the 'Congaree Gas and Electric Company,' under the name of 'The Columbia Electric Street Railway, Light and Power Company,' and to confer upon the consolidated company all of the franchises and powers conferred by charter upon the consolidating companies, and also those conferred by charter upon 'The Columbia Street Railway Company' which said consolidated company is to purchase.

Whereas, the 'Columbia Electric Street and Suburban Railway and Electric Power Company' and the 'Congaree Gas and Electric Company' have agreed to consolidate the property, franchises and privileges owned and held by them, the consolidated company to be known as 'The Columbia Electric Street Railway, Light and Power Company,' which consolidated company is to acquire the property, franchises and privileges of 'The Columbia Street Railway Company.' Now therefore,

Section 1. *Be it enacted by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same,* That the 'Columbia Electric Street and Suburban Railway and Electric Power Company' and the 'Congaree Gas and Electric Company' be, and they hereby are, authorized to consolidate their property, franchises and privileges into one company, under the name of 'The Columbia Electric Street Railway, Light and Power Company,' such consolidation to be effected by a deed of indenture, to be executed by the two consolidating companies, declaring their intention so to consolidate, and transferring to said consolidated company all of the property, franchises, rights and privileges owned or held by each of them respectively.

Section 2. That upon such consolidation 'The Columbia Electric Street Railway, Light, and Power Company' shall be vested with all the rights, franchises, powers and privileges conferred upon the consolidating companies by an act entitled *'An Act to incorporate the Congaree Gas and Electric Company,'* approved December 24, A. D. 1887, and by an Act entitled *'An Act to incorporate the Columbia Electric Street and Suburban Railway and Electric Power Company,'* approved December 24, A. D. 1890, or any Acts amendatory thereof, and that said consolidated company be subject to all of the debts and liabilities of the two consolidating companies; and that said consolidated company be authorized and empowered to purchase and acquire the property, franchise, and privileges of 'The Columbia Street Railway Company,' and upon such purchase said consolidated company be vested with all the rights, powers, franchises, and privileges conferred by an Act entitled *'An Act to incorporate the Columbia Street Railway Company,'* approved February 9th, A. D. 1882; but such purchase to be without prejudice to creditors of The Columbia Street Railway Company to enforce their rights against said Columbia Street Railway Company.

Section 3. That for the purpose of the consolidation and purchase herein authorized, said 'The Columbia Electric Street Railway, Light and Power Company' shall be authorized and empowered to issue seventy-five thousand dollars of paid-up capital stock, in seven hundred and fifty shares of one hundred dollars each, to be divided in such proportions as may be agreed upon between the two consolidating companies for distribution among their respective stockholders; and may also issue mortgage or coupon bonds, not to exceed one hundred and fifty thousand dollars, [fol. 959] bearing interest at a rate not exceeding seven per centum per annum, to be sold and the proceeds applied as agreed upon; and may, for other purposes of the company, from time to time, issue additional mortgage or coupon bonds to bear such rate of interest as may be agreed upon; and the said company shall have the power, in order to secure any or all bonds issued by it, to secure the same by a mortgage or mortgages of its property and franchises.

Section 4.. That said company may purchase and hold any real estate for the purpose of improvement that may be deemed advisable, in or near the city of Columbia, and the same may sell, lease, or mortgage.

Section 5. That upon the consummation or completion of the consolidation of the said companies as is provided for in this Act, the organization of the consolidated company shall be completed by the election of a Board of Directors from among the stockholders in said consolidated company as may be agreed upon. The Board of Directors thus elected shall continue in office for one year, and until their successors shall be duly elected, and thereafter there shall be annual meeting of the stockholders of said company, at which directors shall be chosen, whose term of office shall be as above provided.

Section 6. That the duration of the charter hereby granted shall be for the term of fifty years, and until the final adjournment of the General Assembly next thereafter.

Section 7. That this Act shall be taken and deemed as a public Act, and shall take effect immediately upon its approval.

Approved December 16th, A. D. 1891."

VI.

ORDINANCES OF CITY OF COLUMBIA— *Re* ELECTRIC RY. OF CONSOLIDATED CO.—1892

[II, REC. 838]

Sec. 561. The Columbia Electric Street Railway, Light and Power Company having purchased the line of street railway of the Columbia Street Railway Company, with its franchises, rights, and privileges, the powers and privileges heretofore granted to the Columbia Street Railway Company are hereby conferred upon the former company, and the said company shall be subject to all the duties, liabilities, restrictions and regulations now or hereafter prescribed for said Columbia Street Railway Company.

Electricity or Motive Power Allowed—Line of Railway—Amendment—How Tracks to be Laid—Speed.

Sec. 562. The Columbia Electric Street Railway, Light and Power Company shall have the privilege of using electricity as a motive power for its cars, and the further privilege of laying two tracks from the Union Depot on Gervais Street to Richardson Street, and along Richardson Street to Laurel Street, said tracks not to be more than six feet apart; and one track from the Union Depot on Gervais

Street to the river. On streets where single tracks run, turnouts will be allowed where necessary; said company [fol. 984] may relay the track of the railway line purchased by them along the entire line, and to erect poles between the said tracks on the center line of the streets, except where such lines are to run on streets with shade trees, where the line, tracks and poles shall run between the sidewalk on one side and the centre line of the street, and as near the centre of the street as practicable, and to hang all necessary wires thereon, and to erect poles and hang feed wires thereon from its power station along such streets as may be most convenient to such points on its line as it may be desired to reach; and to have the further privilege of running its cars at the rate of speed not exceeding ten miles per hour on Main Street and not exceeding twenty miles per hour on all side streets; and in all other respects said company is to have the rights and privileges conferred upon the Columbia Street Railway Company, and be subject to the restrictions and conditions hereinbefore prescribed for said company.

VII

ENABLING ACT—1925

[II, R. 806: MARCH 19, 1925]

An act to authorize Columbia Railway, Gas & Electric Company, Parr Shoals Power Company, Columbia Gas Light Company, South Carolina Power Company, Saluda Manufacturing Company, Central Carolina Power Company and Public Service Company of South Carolina, or any of them, to merge, consolidate or sell, transfer and convey all or any part of their respective properties, assets, franchises and charter or other rights to any one or more of them or to Broad River Power Company, a corporation

of the State of South Carolina, and to authorize the Broad River Power Company or any one or more of them to merge, consolidate or purchase the same and to vest in said Broad River Power Company or any other of said companies the property, assets, franchises and charter or other rights so sold, transferred, conveyed, merged, consolidated, or purchased, and to validate the same.

Section 1. Merger of Certain Corporations Authorized—*Be it enacted by the General Assembly of the State of South Carolina:* That Columbia Railway, Gas and Electric Company, Parr Shoals Power Company, Columbia Gas Light Company, South Carolina Power Company, Saluda Manufacturing Company, Central Carolina Power Company, and Public Service Company of South Carolina, all which last named six companies are owned or controlled by Columbia Railway, Gas and Electric Company, or any one or more of them, be, and they hereby are, and each of them is authorized to merge or consolidate with or to sell, transfer and convey to any one or more of them or to the Broad River Power Company all or any part of their respective properties, assets, franchises and charter or other rights, and each and every of said companies and the Broad River Power Company are hereby authorized to merge or consolidate with or to purchase and to receive and hold all [fol. 955] or any part of the properties, assets, franchises and charter or other rights of any other of said companies so sold, transferred and conveyed to it, any such merger, consolidation or purchase and sale to be authorized by seventy-five (75) per cent in interest of the stockholders of the respective companies merging, consolidating, selling, transferring and conveying any such property and rights and of the company receiving the same, and each and every company so merging or consolidating with or becoming the purchaser of any of such property, assets, franchises and charter or other rights is hereby declared to be vested with

the same and all such mergers, consolidations, sales, transfers and conveyances are hereby validated and confirmed: Provided, That all such mergers, consolidations, sales, transfers and conveyances shall be made without prejudice to any claim for taxes or any rights of any creditors of the companies so selling.

Section 2. Franchises.—That in furtherance of the purposes of Section 1 of this act, it is hereby declared that all franchises heretofore granted by the State to any of the said companies may be transferred and assigned in pursuance of the provisions of Section 1 of this Act, and that said franchises are hereby ratified, confirmed and continued in full force and effect in the company, to which the same shall be so transferred and assigned and that such company shall hold the same with all the rights, powers and privileges granted to the original holder thereof, subject only to the restrictions, requirements and conditions in said franchises contained.

Section 3. All acts or parts of acts inconsistent with this Act are hereby repealed.

[fol. 956] Section 4. Fees.—This Act shall take effect upon payment to the proper officers of an amount of fees which shall be equal to the dissolution fees of the merged corporations and charter fees of new corporations, if the merged corporations were dissolved by the Secretary of State and the new company chartered by the Secretary of State.

Approved the 19th day of March, A. D. 1925.

VIII.

DEED FROM CONSOLIDATED CO. TO BROAD RIVER POWER CO.—DATED JUNE 15, 1925

[II, REC. 1070]

STATE OF SOUTH CAROLINA:

Know all men by these presents that under and by virtue of a law of the State of South Carolina entitled: "An Act to Authorize Columbia Railway, Gas & Electric Company, Parr Shoals Power Company, Columbia Gas Light Company, South Carolina Power Company, Saluda Manufacturing Company, Central Carolina Power Company and Public Service Company of South Carolina, or Any of Them, to Merge, Consolidate or Sell, Transfer and Convey All or Any Part of Their Respective Properties, Assets, Franchises and Charter or Other Rights to Any One or More of Them or to Broad River Power Company, a Corporation of the State of South Carolina, and to Authorize the Broad River Power Company or Any One or More of Them to Merge, Consolidate or Purchase the Same and to Vest in Said Broad River Power Company or Any Other of Said Companies the Property, Assets, Franchises and Charter or Other Rights so Sold, Transferred, Conveyed, Merged, Consolidated, or Purchased, and to Validate the Same," approved on the 19th day of March, 1925, Columbia Railway, Gas & Electric Company, a corporation of the State of South Carolina, for and in consideration of the sum of Five (5) Dollars to it paid by Broad River Power Company, a corporation of the State of South Carolina, the receipt whereof is hereby acknowledged, has granted, bargained, sold, released, assigned, transferred and set over, and by these presents doth grant, bargain, sell, release, assign, transfer and set over unto Broad River Power Company, its successors and assigns forever:

Property Formerly Owned by South Carolina Power Company.

(Here follows description of 55 parcels)

Being the same premises conveyed to Columbia Railway, Gas & Electric Company by South Carolina Power Company by deed dated June 15th, 1925.

Property Formerly Owned by the Parr Shoals Power Company.

(Here follows description of 49 parcels)

Being the same premises conveyed to Columbia Railway, Gas & Electric Company by The Parr Shoals Power Company by deed dated June 15th, 1925.

Property Formerly Owned by Columbia Gas Light Company.

(Here follows description of 1 parcel)

Being the same premises conveyed to Columbia Railway, Gas & Electric Company by Columbia Gas Light Company by deed dated June 15th, 1925.

Property Formerly Owned by Public Service Company of South Carolina.

(Here follows description of 2 parcels)

Being the same premises conveyed to Columbia Railway, Gas & Electric Company by Public Service Company of South Carolina by deed dated June 15th, 1925.

Property Owned by Columbia Railway, Gas & Electric Company.

(Here follows description of 17 parcels)

18. Any and all property of every kind, nature and description, real, personal and mixed, tangible and intangible, together with all rights, privileges, easements, appurtenances and franchises, not herein expressly retained by Columbia Railway, Gas and Electric Company.

Saving and excepting, and Columbia Railway, Gas and Electric Company expressly retains the following:

(a) Its franchises to operate and maintain its street railway in the County of Richland, State of South Carolina, within and without the City of Columbia and other municipal corporations in said County.

(b) All easements, rights of way, rights and privileges necessary for operation of said street railway.

(c) All street cars, tracks, ties, overhead conductors, brackets, spans, tools, repair equipment, material and supplies used or useful exclusively for street railway purposes.

(d) All that lot or parcel of land situate in the County of Richland, State of South Carolina, and more particularly [fol. 1351] described and bounded as follows: Beginning at a point on lands of T. J. Harper opposite the intersection of Olympia Avenue and Bluff public highway and running thence in a straight line eleven hundred and fifteen (1,115) feet to the property line of The State Agricultural and Mechanical Society at a point thereon four hundred and thirty-eight (438) feet from the corner of the property of the said State Agricultural and Mechanical Society on Bluff public highway, the strip of land so described being thirty (30) feet in width.

Together with all and singular the rights, members, hereditaments, and appurtenances to the said premises belonging, or in any wise incident or appertaining.

To have and to hold all and singular the premises before mentioned unto the said Broad River Power Company, its successors and assigns forever.

The property hereinbefore described as having been formerly owned by The Parr Shoals Power Company is subject, nevertheless, as to the property thereby covered, to the lien of a certain First Mortgage and Deed of Trust made, executed and delivered by The Parr Shoals Power Company to Columbia-Knickerbocker Trust Company, now Irving Bank-Columbia Trust Company, as Trustee, dated August 1, 1912.

The property hereinbefore described as having been formerly owned by Columbia Railway, Gas & Electric Company is subject, nevertheless, as to the property thereby covered, to the lien of a certain First Mortgage and Deed of Trust, made, executed and delivered by Columbia Railway, Gas & Electric Company to Knickerbocker Trust Company, now Irving Bank-Columbia Trust Company, as Trustee, dated July 1, 1911, and also to the mortgage of the Columbia Canal made, executed and delivered by the Board of Trustees of the Columbia Canal to Wilie Jones, George R. Wright and J. Q. Marshall, as Trustees, dated February 1, 1888.

[fol. 1352] The property hereinbefore described as having been formerly owned by Columbia Gas Light Company is subject, nevertheless, as to the property thereby covered, to the lien of a certain mortgage made, executed and delivered by Columbia Gas Light Company to The New York Trust Company, as Trustee, dated July 1, 1906.

All of the property hereinbefore described is subject, nevertheless, to the lien of the Supplemental Indenture made, executed and delivered by Columbia Railway, Gas & Electric Company to Irving Bank-Columbia Trust Company, as Trustee, dated June 15, 1925.

And said Columbia Railway, Gas & Electric Company does hereby bind itself and its successors to warrant and forever defend all and singular the said premises unto the

said Broad River Power Company, its successors and assigns against itself and its successors lawfully claiming or to claim the same or any part thereof.

In witness whereof the Columbia Railway, Gas & Electric Company has caused these presents to be signed by W. S. Barstow, its President, and its corporate seal to be hereto affixed this 15th day of June in the year of our Lord one thousand nine hundred and twenty-five and in the one hundred and forty-ninth year of the Sovereignty and Independence of the United States of America.

Columbia Railway, Gas and Electric Company, by W. S. Barstow, President. (Seal.)

Signed, sealed and delivered in the presence of G. A. Aronson, A. A. Cano, William J. White.

[fol. 1353] STATE OF NEW YORK,
County of New York, ss;

Before me, a Notary Public in and for the County and State of New York, personally appeared G. A. Aronson and made oath that he saw the within named Columbia Railway, Gas & Electric Company by the hands of W. S. Barstow, its President, sign, affix the corporate seal and, as the act and deed of said corporation, deliver the within written deed for the uses and purposes therein mentioned, and that he with A. A. Cano witnessed the execution thereof; and subscribed their names as witnesses thereto.

G. A. Aronson.

Sworn to and subscribed before me this 18th day of June, A. D., 1925. William J. White, Notary Public, Queens County. Queens County Clerk's No. 3905. Certificate filed in New York County. Clerk's No. 97, Register's No. 7170. Commission expires March 30th, 1927. (Seal.)